

18-384

Steven Broeckaert

From: Steven Broeckaert
Sent: Thursday, April 11, 2019 12:19 PM
To: Friedman, Matt; Michelle Carey; Sarah Whitesell; Martha Heller; Brendan Murray; Jamile Kadre
Cc: 'Hurwitz, Michael'; Michalopoulos, Pantelis; Erickson, Markham; Wallach, Ryan (Ryan_Wallach@comcast.com); Murray, David
Subject: RE: MB Docket No. 18-384 -- Comcast Objection to Protective Order Access

All,

This email grants beIN's 20 day extension request. Accordingly, beIN's Reply to Comcast's Answer must be filed on or before Monday, May 6, 2019. I will have a copy of this email placed in Docket No. 18-384.

Best regards,

Accepted / Filed

Steve

APR 12 2019

Steven A. Broeckaert
Senior Deputy Chief,
Policy Division,
Media Bureau

Federal Communications Commission
Office of the Secretary

*** Non-Public: For Internal Use Only ***

From: Friedman, Matt <mfriedman@steptoe.com>
Sent: Tuesday, April 9, 2019 5:45 PM
To: Steven Broeckaert <Steven.Broeckaert@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Sarah Whitesell <Sarah.Whitesell@fcc.gov>; Martha Heller <Martha.Heller@fcc.gov>; Brendan Murray <Brendan.Murray@fcc.gov>; Jamile Kadre <Jamil.Kadre@fcc.gov>
Cc: 'Hurwitz, Michael' <MHurwitz@willkie.com>; Michalopoulos, Pantelis <PMichalopoulos@steptoe.com>; Erickson, Markham <merickson@steptoe.com>
Subject: RE: MB Docket No. 18-384 -- Comcast Objection to Protective Order Access

Good evening,

Pursuant to the Commission's rules, 47 C.F.R. § 1.46, and the order below, beIN respectfully requests an extension of an additional 20 days—until Monday May 6—to file its Reply to Comcast's Answer. As intimated by the Bureau's order below, there is good cause for this extension. *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969). beIN needs this additional time to identify and retain a program carriage negotiations expert who is also able to access Highly Confidential Information submitted by Comcast under the Protective Order, and then to finalize its Reply based on the opinion that expert provides. For the reasons set forth in beIN's Opposition to Comcast's Objection to Protective Order Access for Mr. Sahl, but not addressed in Friday's order, this search may not ultimately be successful. Namely, under the broad interpretation of "Submitting Party" and "competitor," as used in the Protective Order, it will be hard, if possible at all, to identify an industry expert who is not disqualified by virtue of his or her own expertise. Under that broad reading, the same experience in engaging in program carriage negotiations that qualifies a person to opine on NBC's highly confidential negotiation and content assurance practices is likely disqualifying under the Protective Order.

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Policy Division,
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Cc: 'Hurwitz, Michael' <MHurwitz@willkie.com>; Michalopoulos, Pantelis <PMichalopoulos@steptoe.com>; Erickson, Markham <merickson@steptoe.com>
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Nevertheless, beIN believes that an effort to identify such an expert is important to its ability to mount a comprehensive rebuttal to Comcast's Answer, and estimates that an additional 20 days are necessary to undertake such an effort. beIN has diligently begun that effort. At the conclusion of the requested 20 days, beIN plans to submit its Reply whether or not it has been able to secure an additional industry expert witness.

Further, beIN clarifies that Comcast has granted access to the "Highly Confidential" information to four, not five, other people hired to assist beIN. All four are affiliated with the Econ One firm, and three of them assist a single expert—beIN's economic expert Dr. Singer.

Thank you.

Mendel R. Friedman
Associate
mfriedma@StepToe.com

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From: Steven Broeckaert [<mailto:Steven.Broeckaert@fcc.gov>]
Sent: Friday, April 05, 2019 9:59 AM
To: Friedman, Matt; Michelle Carey; Sarah Whitesell; Martha Heller; Brendan Murray; Jamile Kadre
Cc: 'Hurwitz, Michael'; Michalopoulos, Pantelis; Erickson, Markham
Subject: MB Docket No. 18-384 -- Comcast Objection to Protective Order Access

All,

After reviewing the relevant pleadings and the terms of the Protective Order adopted in this proceeding by the Media Bureau, we hereby grant Comcast's Objection to Protective Order Access with regard to beIN's expert, Mr. Eric Sahl. We find that granting Mr. Sahl access to Comcast's information designated as "Highly Confidential" would be inconsistent with Paragraph 4 of the Protective Order. We conclude that this action will not unduly prejudice beIN as Comcast has granted access to the "Highly Confidential" information to five other experts hired to assist beIN in evaluating Comcast's Answer and formulating beIN's Reply. BeIN may also identify additional experts that can request access to Comcast's "Highly Confidential" information in light of this ruling.

We recognize that beIN may need additional time to identify additional experts and/or finalize its Reply. Accordingly, we are inclined to grant any reasonable extension beIN requests in addition to the 10 days previously provided to beIN in my 2/28/19 email. We direct beIN to make any extension request within five business days of this order. Any extension request may be made via email copying all relevant parties.

I will have a copy of this email placed in Docket 18-384.

Best regards,

Steve

Steven A. Broeckaert
Senior Deputy Chief,
Policy Division,
Media Bureau

*** Non-Public: For Internal Use Only ***

From: Steven Broeckaert

Sent: Thursday, February 28, 2019 1:45 PM

To: Friedman, Matt <mfriedman@steptoe.com>; Michelle Carey <Michelle.Carey@fcc.gov>; Sarah Whitesell <Sarah.Whitesell@fcc.gov>; Martha Heller <Martha.Heller@fcc.gov>; Brendan Murray <Brendan.Murray@fcc.gov>; Jamile Kadre <Jamil.Kadre@fcc.gov>

Cc: Hurwitz, Michael <MHurwitz@willkie.com>; Michalopoulos, Pantelis <PMichalopoulos@steptoe.com>; Erickson, Markham <merickson@steptoe.com>

Subject: RE: MB Docket No. 18-384 -- beIN Motion to File Extension of Time Request and Request for Extension of Time

All,

By this email, we grant beIN's Motion To File Extension Request And Request For Extension Of Time. As requested, beIN's reply in this proceeding (MB Docket No. 18-384, File No. CSR-8972-P) is due ten days after the Media Bureau resolves Comcast's pending Objection to Protective Order Access.

Best regards,

Steve

Steven A. Broeckaert
Senior Deputy Chief,
Policy Division,
Media Bureau

*** Non-Public: For Internal Use Only ***

From: Friedman, Matt <mfriedman@steptoe.com>

Sent: Wednesday, February 27, 2019 6:28 PM

To: Michelle Carey <Michelle.Carey@fcc.gov>; Sarah Whitesell <Sarah.Whitesell@fcc.gov>; Martha Heller <Martha.Heller@fcc.gov>; Steven Broeckaert <Steven.Broeckaert@fcc.gov>; Brendan Murray <Brendan.Murray@fcc.gov>

Cc: Hurwitz, Michael <MHurwitz@willkie.com>; Michalopoulos, Pantelis <PMichalopoulos@steptoe.com>; Erickson, Markham <merickson@steptoe.com>

Subject: MB Docket No. 18-384 -- beIN Motion to File Extension of Time Request and Request for Extension of Time

Good afternoon,

Attached is a copy of beIN's Motion to File Extension of Time Request and Request for Extension of Time, which was electronically filed with the Commission today in MB Docket No. 18-384.

As the Bureau knows, beIN's Reply to Comcast's Answer to beIN's Complaint is currently due this Monday, March 4, 2019. beIN requests an extension of time of ten days from the Bureau's decision on Comcast's pending Objection to Protective Order Access to file this Reply.

Thanks,

Matthew R. Friedman
Associate
mfriedman@Step toe.com

Step toe

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Washington, DC 20036
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